

In Attendance:

Mayor Steve Bierce, Aldermen B. Bergman, C. Brown, B. Dziwulski, R. Grosch, J. Kara, and J. Wamser.

Also in Attendance:

Attorney S. Riffle, Administrator S. Klein, DPW Director J. Weigel, Assistant Engineer M. Wagner, Utility Manager J. Mueller, and Clerk/Treasurer K. Tarczewski.

1. Call to Order and Pledge of Allegiance
2. Public Comment – None.
3. Consent Agenda
 - 3.1. Approve Common Council Meeting Minutes Dated May 7, 2018
 - 3.2. Approve Common Council Meeting Minutes Dated May 21, 2018
 - 3.3. Approve Accounts Payable Listings
 - 3.4. Approve Bartender Licenses
 - 3.5. Concur with the Plan Commission (5/17/2018) to **APPROVE Ordinance 18-05** to Rezone the Property Located on the Northwest Corner of Springdale Road and Johnson Drive from M-2 Limited Industrial to M-1 General Wholesale Business as Requested by B & G Realty LLC/Marcus, Consid LLC, Marcus Cinemas of Wisconsin LLC to Developed as a Self-Storage Facility (PWC 0961-996-006) [*second reading*]
 - 3.6. Concur with the Plan Commission (PC 5/17/2018) to **APPROVE** the Conditional Use Permit for Blue Ribbon Management LLC to Allow for Property Located at the Northwest Corner of Springdale Road and Johnson Drive to be Developed as a Self-Storage Facility (PWC 0961-996-006)
 - 3.7. Concur with the Plan Commission (PC 5/17/2018) and **APPROVE** the Conditional Use Permit for 814 Development LLC to Construct a New Rainbow Child Care Center Located at N35 W23770 Capitol Drive (PWC 0906-999-008)
 - 3.8. Concur with the Plan Commission (PC 5/17/2018) and **APPROVE** the Conditional Use Permit for Skydance Pet Lodge to Build and Operate a Pet Daycare Facility Located at W229 N2633 Duplainville Road (PWC 0915-992)
 - 3.9. Concur with the Plan Commission (PC 5/17/2018) and **APPROVE** the Mitigation Plan with Contingencies for Property Owned by Tim Youngbauer Located at N28 W27580 Peninsula Drive (PWC 0933-064)
 - 3.10. Award of the Sale of the Surplus Plow Truck to the Highest Bidder (Bid Opening on 5/31/2018)

Mayor Bierce pulled Item 3.6 for discussion. Ms. Brown asked that Items 3.2 and 3.7 also be pulled for discussion.

A motion was made and seconded, (R. Grosch, J. Kara) to approve the remaining items on the consent agenda. Motion Passed: 6-For, 0-Agaist.

- 3.2 Approve Common Council Meeting Minutes Dated May 21, 2018

Ms. Brown asked why the names of the aldermen who made and seconded the motion to go into closed session weren't listed. Ms. Tarczewski stated there were issues with Novus and the tape was not available to determine who did so. The Common Council members could not recall that information either. Attorney Riffle recommended amending the minutes to reflect a motion was made and seconded to go into closed session and a roll call vote was taken.

A motion was made and seconded, (B. Dziwulski, J. Kara) to approve the Common Council meeting minutes dated May 21, 2018 directing the Clerk to change the language in that section to be more general.

Motion Passed: 6-For, 0-Against.

- 3.6 Concur with the Plan Commission to APPROVE the Conditional Use Permit for Blue Ribbon Management LLC to Allow for the Property Located at the Northwest Corner of Springdale Road and Johnson Drive to be Developed as a Self-Storage Facility.

Michael Kelly was present for this item and stated the seller wishes to have the rezoning and conditional use permit be made contingent upon the sale of the property which is expected to take place in July.

A motion was made and seconded, (B. Dziwulski, C. Brown) to approve the conditional use permit for the Blue Ribbon Management LLC self-storage facility contingent upon the sale of the property going through.

Motion Passed: 6-For, 0-Against.

- 3.7 Concur with the Plan Commission and APPROVE the Conditional Use Permit for 814 Development LLC to Construct a New Rainbow Child Care Center Located at N35 W23770 Capitol Drive

Ms. Brown stated she attended that Plan Commission meeting and wanted to note there were issues regarding the traffic on Capitol Drive and the Broken Hill residents were adamant that they did not want patrons of the business to use their roads as a way to avoid traffic. She asked if there was anything that could be done to prevent this including and not limited to having another business develop in that location. Mr. Klein stated he was unsure how they could regulate and enforce traffic usage on a public road.

Attorney Riffle stated the City is going to have to take a hard look at its procedures following the enactment of Act 237. The decision maker on conditional uses is the Common Council. He said the Council is the final judge whether or not to issue a conditional use. The Council will have to decide whether or not the applicant made a case that meets all the criteria on the basis of what you hear, not the Plan Commission. Therefore, the public hearing should be at the Common Council level or give the Plan Commission the final say. The applicant will have to give substantial evidence and any conditions that the governing body enacts will have to be measurable.

Attorney Riffle suggested tabling the item until the Council could hold a public hearing. It was noted that all members of the Common Council attended the Plan Commission meeting on May 17, 2018.

A motion was made and seconded, (B. Dziwulski, J. Wamser) to approve the conditional use permit of Rainbow Child Care Center because they provided substantial evidence that they can meet the code requirements as it relates to this proposed conditional use permit under the zoning that is in effect.

Motion Passed: 5-For, 1-Against (C. Brown)

4. Updated Related to the Pewaukee Lake Patrol

Chief Iding and Sergeant Twelmeyer of the Village Police Department were present for this item.

Chief Iding stated the Lake Patrol is staffed by veteran law enforcement individuals from various area agencies. He stated they have several years of experience and training among them. He said the department is focusing on educating boaters on safety and courtesy matters. Most recently these include reaching out to carp fishermen regarding the use of generators and lights in the early hours and those individuals who use wake boards.

He stated his budget has stayed consistent over the last few years and they utilize Department of Natural Resources grants to fund some of their expenses.

5. Consideration of an Initial **Resolution 18-06-14** Regarding Revenue Bond Financing for Christ Ev. Lutheran Church of Pewaukee, Inc. Project. Information with respect to the job impact of the project will be available at the time of consideration of the Initial Resolution

Attorney Riffle stated this is a typical Industrial Revenue Bond (IRB) situation. Legislation authorizes borrowing by a private entity using the City as a pass through entity. He said the statute is broad enough to allow the church to do this as long as the proposed use is in line with the long range land use plan. He said this does not affect the City's bond rating, nor will it be the City's obligation.

Mr. Kara stated IRBs are used to promote ordinary businesses and help them expand which in turn causes a need for increased services. He stated the Church doesn't pay for these services since they are tax exempt.

Church President Rod Winter was present for this item. He said the church is outreach minded and the congregation has grown substantially. He stated they want to build a 30,000 square foot expansion to include an event center featuring a gymnasium, a gathering space, and additional classrooms. He added he feels this project is good for the community.

There was additional discussion amongst the Council members.

A motion was made and seconded, (J. Wamser, B. Dziwulski) to approve initial Resolution 18-06-14 pertaining to Christ Ev. Lutheran Church's revenue bond financing project.

Motion Passed: 5-For, 1-Against (J. Kara)

6. Discussion and Possible Action Clarifying the Award of the Deer Haven 2 and Steeplechase 1 Paving Contracts at the March 19, 2018 Common Council Meeting

Mr. Weigel and Ms. Wagner were present for this item. Mr. Weigel stated there were numerous alternative bids pertaining to this project and there is some confusion on what has been awarded. He said Ms. Wagner is recommending a full depth asphalt replacement through the entire project.

Mayor Bierce questioned whether or not this would still be covered under the current budget and asked if another public hearing would be needed. Mr. Weigel stated it is covered under the current budget and no additional public hearings would be needed, the lowest qualified bidder remains the same. He added, the only special assessment change would be for the City of Pewaukee well. All the other properties are capped.

A motion was made and seconded, (C. Brown, B. Bergman) to change the work order for the Deer Haven 2 and Steeplechase 1 projects to include full depth replacement.

Motion Passed: 6-For, 0-Against.

7. Discussion and Possible Action to Award the Paul Road Culvert Replacement Contract to the Lowest Responsive Bidder, Globe Contractors in the Amount of \$784,085.00

Attorney Riffle stated the term “responsive” is being used because the company that provided the lowest bid erroneously calculated the bid and asked the City to disregard it. He said the City could pull their bid bond if they refuse to do the contract, and if they could show there was no negligence on their part, but they have no defense. This would equate to \$24,983.00.

Mr. Weigel stated the City’s consultants reviewed the bids to locate the disparities.

Mr. Weigel stated the department was aware that one of the culverts was failing and put in \$150,000 in the budget for its replacement, but the project bid included four crossings which resulted in a significant increase on the cost of the project. He said the other utility work for sanitary sewer, water and storm sewer inlets would have been included with the paving project if it would have went through. He said the \$1 million paving project was delayed due to their recommendation. He said the storm water utility budget includes \$1.8 million for Emerald Acres flood relief but the project would be accessed from Roundy’s Circle West. He said if we repave the road this year, next year when the pipes are replaced heavy trucks will be using those roads and damage could occur.

Mr. Weigel stated doing the project would require reprogramming of funds.

Mr. Bergman stated he was not interested in going after the bid bond funds. The other Council members agreed.

A motion was made and seconded, (B. Dziwulski, J. Kara) to approve reprogramming storm water funds in the amount of \$27,902 and award the contract to the lowest responsive bidder, Globe Contractors, in the amount of \$784,085.00. Motion Passed: 6-For, 0-Against.

8. Discussion and Possible Action to Approve the Woodleaf Reserve Addition No. 2 Development Agreement and Letter of Credit/Surety

Mr. Weigel stated Towne Reality has been developing this subdivision in phases. He said this agreement is an addendum to the previous other phases. He said the property owners are requesting to make a private park on outlot #7. Ms. Brown wanted to make sure the property owners are aware that there are no special assessment caps on this type of property. Mr. Doering stated he was aware.

There was additional discussion.

A motion was made and seconded, (B. Bergman, J. Wamser) to approve the Woodleaf Reserve addition No. 2 development agreement contingent upon the final review of the City Attorney and Engineering staff and establish the letter of credit/surety at \$1, 297,475.00 in a form acceptable to the City Attorney. Motion Passed: 6-For, 0-Against.

9. Discussion and Possible Action Regarding the City of Waukesha Notice to Increase Sewer Fees by \$18.60 per Quarter Beginning June 2018

Mr. Weigel and Ms. Mueller were present for this item. Mr. Weigel stated he was before the Council at the end of last year to raise the rates to match what Waukesha was charging certain City residents. He said he recently received notice that they are raising their rates again starting the next quarter. He said it was his understanding that the utility is to pass the increases to the residents in the service area but wanted to make sure the Council was comfortable with this since it was recently done.

Ms. Mueller stated the increase most likely is due to the infrastructure for the return back to Lake Michigan. She said Waukesha is adding lift stations and piping routes.

Mr. Kara asked how it came to be that we are utilizing the City of Waukesha water and sewer. Mr. Weigel stated the Regional Planning Commission determines the service areas and what would be most cost effective. Mr. Kara stated he receive a complaint about the increase and feels future increases should be done on an annual basis. He said everyone in the City of Pewaukee should be paying the same rate.

Ms. Brown stated new homes are not allowed to hook up to Waukesha water any more, only to sewer. Mr. Weigel stated that is due to the Great Lakes Compact Agreement that the City of Waukesha entered into. Attorney Riffle stated we are under contract with the City of Waukesha and must pay what they bill us. He said the only relief is to go before the PSC. Mr. Weigel stated this was not an outlandish rate. Mr. Weigel explained the differences between metered and unmetered rates.

A motion was made and seconded, (J. Kara, C. Brown) to establish a practice policy to adjust the Waukesha City water and sewer billings once a year, having the City temporarily subsidizing the increase and delaying the recent increase of \$18.60 to 2019. Motion Failed: 3-For (J. Kara, C. Brown and B. Dziwulski) 3-Against (B. Bergman, R. Grosch and J. Wamser). Mayor Bierce voted against the motion to break the tie vote.

Ms. Brown requested staff talk to the City of Waukesha about the timeliness of their increase notices.

10. Discussion and Possible Action Regarding Applications for Outdoor Activity on Premises Where Alcoholic Beverages are Consumed
- 10.1 5 O'Clock Club
 - 10.2 Andrea's Red Rooster
 - 10.3 Aqua Beauty Lounge
 - 10.4 Boomers Sports Pub & Grill
 - 10.5 Curly's Waterfront
 - 10.6 Edgewater
 - 10.7 Gina's Sports Dock
 - 10.8 Point Burger Bar
 - 10.9 Smokey's Musky Shop

- 10.10 The Station Pub & Grill
- 10.11 Waukesha Gun Club
- 10.12 Wonderland Tap

Mayor Bierce stated this item will be treated similarly to the consent agenda; if anyone wished to discuss a specific establishment it could be pulled for discussion and all others could be approved as a group.

Ms. Tarczewski stated she had concerns related to Item 10.9 related to Smokey's Musky Shop and asked that it be pulled for discussion.

Mr. Bergman stated the outdoor entertainment permits were discussed at Plan Commission and were recommended for approval.

A motion was made and seconded, (J. Wamser, B. Bergman) to concur with the Plan Commission and approve the remaining Outdoor Entertainment permits.

Motion Passed: 6-For, 0-Against.

Ms. Tarczewski stated she was concerned because Smokey's premise description for their beer license listed the entire property. She said it has never been past practice to allow intoxicating beverages on someone's entire property. She stated premise descriptions have always been more specific and usually includes screening.

A motion was made and seconded, (R. Grosch, B. Dziwulski) to table the Outdoor Entertainment Permit for Smokey's Musky Shop until the area is better defined.

Motion Passed: 6-For, 0-Against.

- 10. Discussion and Possible Action to Make Appointments to Various Boards, Committees and Commissions

Mayor Bierce stated he did not have anyone to present at this time.

- 11. Discussion and Possible Action Related to Possibly Cancelling the First Meeting in July Due to Independence Day

A motion was made and seconded, (B. Bergman, J. Wamser) to cancel the July 2nd, 2018 Common Council meeting due to the holiday. Motion Passed: 6-For, 0-Against.

- 12. Adjournment

A motion was made and seconded, (B. Dziwulski, C. Brown) to adjourn the meeting at 9:19 p.m.

Motion Passed: 6-For, 0-Against.

Respectfully Submitted,

Kelly Tarczewski
Clerk/Treasurer